

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT J. FISHBEIN,

Plaintiff,

v.

**OHIO DEPARTMENT OF
REHABILITATION & CORRECTIONS, et al.,**

Defendants.

Case No. 2:13-cv-650

JUDGE GREGORY L. FROST

Magistrate Judge Elizabeth P. Deavers

ORDER

This matter is before the Court for consideration of the Magistrate Judge's August 7, 2013 Report and Recommendation. (ECF No. 11.) In that filing, the Magistrate Judge conducted an initial screen of Plaintiff's Complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A and recommended that the Court dismiss Plaintiff's claims against the Ohio Department of Rehabilitation and Corrections ("ODRC") and transfer the remainder of the action to the United States District Court for the Northern District of Ohio, Western Division, at Toledo. In regard to the first course of recommended action, the Magistrate Judge explained that "Plaintiff has failed to state plausible claims for relief against ODRC." (ECF No. 11, at Page ID # 45.) In regard to the second course of recommended action, the Magistrate Judge explained that venue was improper. The Report and Recommendation also advised that the failure to object within fourteen days would "result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court." (*Id.* at Page ID # 47.)

The Court has reviewed the Report and Recommendation. Noting that no objections

have been filed,¹ that the time for filing such objections has expired, and that the Magistrate Judge's reasoning is correct, the Court **ADOPTS** the Report and Recommendation, **DISMISSES** Plaintiff's claims against ODRC pursuant to 28 U.S.C. §§ 1915(e) and 1915A, and **TRANSFERS** the remainder of this action to the United States District Court for the Northern District of Ohio, Western Division, at Toledo.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE

¹ Subsequent to the filing of the Report and Recommendation, Plaintiff sought to add two additional claims to his complaint in an August 9, 2013 filing. (ECF No. 13.) Because both of these claims relate to conduct involving only defendants other than ODRC and in light of the transfer ordered herein, the Court expresses no opinion on the validity of these claims and leaves the issues of amendment and initial screening to the United States District Court for the Northern District of Ohio.